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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/729,484	12/04/2000	Connie T. Marshall	ODS/018	5978
1473 7590 05/16/2007 FISH & NEAVE IP GROUP ROPES & GRAY LLP 1211 AVENUE OF THE AMERICAS NEW YORK, NY 10036-8704				
			EXAMINER NGUYEN, BINH AN DUC	
			ART UNIT 3714	PAPER NUMBER
			MAIL DATE 05/16/2007	DELIVERY MODE PAPER

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/729,484  
Filing Date: December 04, 2000  
Appellant(s): MARSHALL ET AL.

MAILED  
MAY 16 2007  
Group 3700

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Brian E. Mack  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed January 9, 2007 appealing from the Office action mailed October 17, 2005.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

6,004,211	Brenner et al.	12-1999
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**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

**Claims 4, 8, 14, and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Brenner et al. (6,004,211).**

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Referring to claims 4 and 14, Brenner et al. teaches a system and method of providing a user interface for interactive wagering, comprising: a user input device (122)(Figure 1) that accepts user inputs (2:32-67; 8:15-28); and control circuitry (140)(Figure 2)(7:55-67) for providing a user with an opportunity to create a default wager as one of the user inputs (player starts the interactive racing game by selecting race tracks, races, wager types, and wager amount, 9:6-10:35, Fig.3), wherein the

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default wager includes at least one default setting (the setting that could be reused, i.e., “duplicate a wager” (12:45-50), that displays default selections for a new wager based on the default wager (i.e., the wager including selected race track, race, wager types, and wager amount that have already been selected by the player selection, (9:49-10:24)), wherein the new wager requires selection of at least a track, a race, a bet type, a bet amount and a horse (9:6-10:35), that provides the user with an opportunity to change selections for the new wager from at least one of the default selections to another selection (selecting “duplicate a wager” or “delete” wager), and that provides the user with an opportunity to place a new wager either by duplicated the created wager or creating another new wager (12:39-51)(Figs.8-19).

Referring to claims 8 and 18, Brenner et al. teaches the at least one default setting of the default wager is a previously selected track (using the hot button to bet on the next race and by pass selection steps 196, 204, and 213)(Figure 3 and column 17, lines 10-26, or using the “duplicate a wager” feature). (Final Office Action, mailed October 17, 2005 (pages 2-3, Claim Rejections - 35 USC § 102)).

#### **(10) Response to Argument**

A. **Response to Appellant’s arguments on rejected claims 4 and 14 under 35 USC § 102(e).** (Argument Section, page 4, line 16 to page 8, line 21 of Appellant’s Brief).

The Appellant argued that Brenner et al. does not teach the limitation of “providing the user an opportunity to change selections for the new wager from at least

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one of the default selections to another selection" (Argument Section, page 6, lines 8-12 of Appellant's Brief) is respectfully disagreed.

Brenner et al. teaches a system and method of providing a user interface for interactive wagering that allows the user an opportunity to create a default wager as one of the user inputs, *e.g., player starts the interactive racing game by selecting race tracks, races, wager types, and wager amount*, wherein the default wager includes at least one default setting (the setting that could be reused, i.e., "duplicate a wager"):

The logical flow of the operation of wagering system 100 (FIG. 1) including menus and options provided by user terminal 122 (FIG. 2) is summarized in FIGS. 3-7. As shown in FIG. 3, at step 172 the user selects between several available options: "today's race tracks," "account information," "news and information," and "bet on the next race." A menu 174 corresponding to step 172 is shown in FIG. 8. As shown in FIG. 8, menu 174 preferably contains corporate logo 176 and date and time information 178. Menu options 180, 182, 184, and 185 are preferably displayed in the center of screen 186. To the left of menu options 180, 182, 184, and 185, are cursor boxes 186, 188, 190, and 191. In FIG. 8, cursor 192 is positioned adjacent to the next available menu option--option 180, thereby "highlighting" that option. When a user desires to select the highlighted option, the user presses "enter" or the "right" cursor key on remote control 156 (FIG. 1). If the user wishes to select a different menu option, the user moves the cursor to the next lower or higher menu option on menu 174 using cursor up/down keys on remote control 156 (FIG. 2). (Brenner et al., column 9, lines 5-25)

When menu 206 is displayed (at step 204 of FIG. 3), cursor 192 is placed at a default position adjacent to race 3, because that is the next race available for wagering. As shown in the upper left corner of menu 206, an abbreviation of the racetrack (in this case "PIM" for Pimlico) is displayed to remind the user of the currently selected racetrack. A user selects a desired race by moving cursor 192 to a race and pressing "enter" or an equivalent action button on remote control 156 (FIG. 2). (Brenner et al., column 9, line 67 to page 10, line 7)

Brenner et al. further teaches displaying default selections for a new wager based on the default wager, *i.e., the wager including selected race track, race, wager types, and wager amount that have already been selected by the player selection*, that provides the user with an opportunity to change selections for the new wager from at least one of the default selections to another selection (selecting "duplicate a wager" or "delete" wager):

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The menu options listed in menus 256 and 262 (FIGS. 16 and 17) allow the user to modify the wagers listed in the queue, make additional bets, etc. For example, as shown in FIG. 3, if at step 258 the user selects "more bets same race," the user is returned to step 214, at which a new wager amount can be selected. The user can then proceed through steps 230, 244, 254, etc. as described above. If at step 258 the user selects "more bets other race," the user is returned to step 204, at which a new track may be selected. Another option at step 258 is to return to the main menu. If "main menu" is selected, the user is returned to step 172. (Brenner et al., column 12, lines 27-37)

If the user selects "send/delete" at step 258 then the system proceeds to step 260 (menu 262 in FIG. 17). At step 260, the user has the option of deleting a wager that is no longer desired. For example, if the user wishes to delete wager 1, the user moves the highlighted portion of the menu to wager 1 and presses the enter key on remote control 156 (FIG. 2), whereupon the information for wager 1 is removed from menu 262 (FIG. 17). If "duplicate a wager" is selected, the user can make a copy of a wager, which appears on the next available wager line. Thus, if wagers 1 and 2 are filled, the user can position the highlighted portion of menu 262 (FIG. 17) adjacent to wager 1 and press enter. Wager 1 will then be duplicated as wager 3. (Brenner et al., column 12, lines 38-50)

Note that, the "duplicate a wager" function provides the user with an opportunity to place a new wager from previously wager selections.

Furthermore, Brenner et al. teaches the at least one default setting of the default wager is a previously selected track (using the hot button to bet on the next race and by pass selection steps 196, 204, and 213):

If desired, "hot" buttons may be used to provide shortcuts through the menu hierarchy of FIGS. 3-7. For example, a hot button 185 labeled "bet on the next race" may be provided as menu option 185 in FIG. 8. If the user selects this option at step 172 (FIG. 3), the user terminal 122 (FIG. 2) determines which upcoming race is the next race available for wagering. The user terminal 122 (FIG. 2) then presents the user with the option of selecting the wager amount for that race at step 214 (FIG. 3). Hot button 185 therefore allows the user to bypass selection steps 196, 204, and 212 (FIG. 3), which the user would otherwise need to pass through. Preferably, any hot button arrangement of the present invention allows the user to bypass one or more selection steps (also called "menu layers"). Hot buttons thus allow quicker movement through various layers of menus than would otherwise be possible (e.g, using a conventional tree-type menu structure without hot buttons). (Brenner et al., column 17, lines 10-26)

Note that, since Brenner et al.'s "hot" buttons allows user to bypass selection steps 196 (racetrack selection), 204 (race selection such as Pimlico), and 212 (place wager, Fig.3), the bypassed selections which contained selected racetrack, selected race, or placed wager are also considered as default selection.

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Brenner et al., therefore, anticipated the appellants' claimed invention.

**(11) Related Proceeding(s) Appendix**

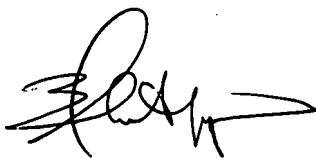
No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Binh-An D. Nguyen  
Examiner  
Art Unit 3714

BN



May 16, 2007

Conferees:  
Xuan Thai  
Eugene Kim

